

Note to Page. 25, No. (a).

interference of the Registrar, there appears to be a difference between the case of an officer or soldier in the service of Her Majesty and an officer or soldier in the Company's service. With respect to the case of an officer or soldier in the service of Her Majesty, we are of opinion, that the officer acting in respect of the deceased's effects may require the Registrar to take out letters of administration in respect of the surplus in question, and that upon such requisition, and not otherwise, the Registrar is lawfully entitled to take out such letters of administration, this is the effect of the Act 6 Geo. IV. c. 61, s. 1. With regard to the case of an officer or soldier in the Company's service, we are of opinion, that under the stat. 3 & 4 Vic. c. 37, s. 52, the Registrar cannot, in any case, be required, and is not, in any case, entitled to take out letters of administration in respect of the surplus in question. He may, however, if required and authorized so to do, but not otherwise, take out administration and interpose in respect of the estate before it is collected."

(signed) *J. Dodson*
Fred. Pollock
Wm. Pollett
Loftus Wigram

[43] ADMIRALTY.

IN RE THE SHIP HINCHINBROOK (1782).

Hyde's Notes, July 2nd, 1782.

Held, that the charter gives no jurisdiction to the Court on its admiralty side to try prize causes.

BRIX moved, on the petition of John Petrie, agent for George Johnstone, commodore of a squadron of His Majesty's ships, that the Court would receive the petition, and proceed to adjudge a certain captured vessel as prize, according to the prayer of the petition.

IMPEY, C. J. I had occasion to consider this question very early. As soon as the war began, I received a letter from Sir Edward Hughes, desiring to know, whether, if a ship, which had been taken, and was at Madras, should be sent to Bengal, the prize could be condemned in this Court. I cannot say that it cost me much time to deliberate, for, on looking into the charter, I thought it very clear the Court could not try any such question. Thinking that it might be convenient if this Court could try prize causes, I mentioned it in a letter to England, and, having received no answer, I conclude it is not intended that this Court should have jurisdiction to try prize causes. The stat. 19 Geo. III. ch. 67 directs how those Courts which have jurisdiction to try prize causes, shall proceed, but it does not give jurisdiction to those Courts of admiralty which do not possess such jurisdiction.

CHAMBERS and HYDE, Js., concurred.

Refused. (a)

[43] (a) But see the next case.